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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,036	02/04/2002	Secma Kataria	SNY-P4233	4981
24337	7590	08/22/2007		
MILLER PATENT SERVICES 2500 DOCKERY LANE RALEIGH, NC 27606			EXAMINER NGUYEN BA, HOANG VU A	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 08/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/067,036	Applicant(s) KATARIA, SEEMA	
	Examiner Hoang-Vu A. Nguyen-Ba	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment filed June 11, 2007.
2. Claims 1-36 remain pending. Claims 1, 13, 25 and 26 are independent claims.

Response to Amendment

3. Per Applicant's request, Claims 11, 15, 23, 27, 29 and 35 have been amended.
4. The objection to the specification is withdrawn in view of Applicant's amendment to the specification to correct the identified informalities.
5. The objection to the claims is withdrawn in view of Applicant's amendments to these claims to correct the identified informalities.

Response to Arguments

6. Applicant's arguments have been fully considered but they are not persuasive. The following is an examiner's response to Applicant's arguments.

With respect to the independent claims, 1, 13, 25 and 26:

Applicant's arguments:

Using claim 1 as an illustrative example, the Office Action states that "determining that digital bitmap image is larger in size than a threshold", as called for by the claim, is found at least at p.13., sections 3.2.1 and 3.3 and asserts that "the application running on the A/V Source will determine the means (e.g., analog or digital) for delivery of the OSD based on the delivery capability of the information returned from the DTV".

However, what EIA actually states is that "the application running on the A/V Source may use its NTSC analog video output as a display method for GUIs. It may overlay its own OSD onto the NTSC analog signal before delivery to the display." In other words, the A/V Source may use analog video as the display method for Graphical User Interfaces (GUI) and On Screen Displays (OSD). Applicant finds no further teaching relevant to this claim feature.

While EIA certainly provides for transmission of both analog and digital data from the A/V Source to the DTV, there is no teaching or suggestion of basing the selection of analog versus digital upon comparison of the size of a digital bitmap image to a threshold size. Moreover, the Office's explanation does not lead to a conclusion that this is the basis for selection of analog versus digital. Rather, the Office's assertion is apparently that the decision as to whether to transmit analog versus digital is carried out in an application running on the A/V source based upon the capabilities of the DTV as determined by the A/V Source's ability to discover certain information relating to the

DTV's capabilities using its discovery capability discussed in sections 3.3 and 9 of EIA (see second paragraph of page 2 of the Office Action). Applicant finds no solid support even for this position, but notes emphatically that this position, even if correct, does not meet the claim feature at issue. Applicant finds no teaching or suggestion that the application running on the AV meets the claim feature.

In order to establish that the claim is unpatentable under 35 U.S.C. §102, it is fundamental that each and every claim feature must be found explicitly or inherently in a single reference (see MPEP 2131), and each and every claim feature must be fully and properly considered. In this case, EIA fails to fairly teach or suggest the feature of comparison of a size of a digital bitmap image to a threshold as a mechanism for determination whether analog or digital transmission to the DTV is to be used as claimed (to paraphrase without intent of imposing limitations). Applicant finds no such teaching or suggestion in EIA. Hence, prima facie unpatentability of claim 1 has not been established.

Examiner's response:

The examiner respectfully notes that according to MPEP § 2111, claims must be given their broadest reasonable interpretation. In this instance, the means for delivery of the OSD depends on the capability of the DTV to process that image. If the DTV determines that the size of a digital image that is larger than a predetermined size, it will return that information to the producer device so that an analog image will be subsequently sent to the DTV instead of a digital image. This interpretation appears to meet the requirements of the claim.

Applicant's arguments:

As to claim 26, there is no teaching or suggestion that the resident or downloaded application and OSD generator of FIG. 3 carry out the function of determining if the size of the bitmap image exceeds a threshold as asserted.

Examiner's response:

Applicant's attention is directed to section 3.1 related to FIG. 3, where it is disclosed that the application running on the A/V Source controls the output of data from the MPEG Transport Stream and that the video stream is decoded under the control of the DTV's local

application. Thus, if the DTV's local application determines that the size of a digital image is larger than a predetermined size, an analog image can be sent to the DTV instead of a digital image.

Applicant's arguments:

Specifically residing claims 14 and 22:

It is noted that the Office Action incorrectly indicates that claims 14 and 22 are independent claims, but in fact for the record, claims 14 and 22 are dependent upon claims 1 and 15 respectively. The above remarks are applicable.

Examiner's response:

The examiner respectfully notes that the claim language of claims 14 and 22 is confusing because it is unclear as to whether claims 14 and 22, each recites an electronic storage medium. An electronic storage medium is construed to be an article of manufacture whereas the method is construed to be a process. Since it is unclear whether an article of manufacture or a method is claimed, Claims 14 and 22 are interpreted each to be an independent claim reciting an article of manufacture.

According to the foregoing discussion, the rejection of Claims 1-36 under 35 U.S.C. § 102(b) as being anticipated by Draft EIA-775A, DTV 1394 Interface Specification is considered proper and thus maintained.

For the detailed rejection of the dependent claims, please see the previous Office action.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hoang-Vu A. Nguyen-Ba whose telephone number is (571) 272-3701. The Examiner can normally be reached on Tuesday - Friday from 7:00 – 17:30.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2600 Group receptionist: 571-272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script, reading "Hoang Anthony Nguyen".

**ANTONY NGUYEN-BA
PRIMARY EXAMINER
TECHNOLOGY CENTER 2100**

August 19, 2007